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Book Reviews

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BOOK REVIEWS

The Antitrust Laws of the U.S.A., A Study of Competition Enforced by Law. By A. D. Neale. New York: Cambridge University Press, 1960. Pp. xvi, 516. $7.50.

The Price Discrimination Laws, A Review of Experience. By Corwin D. Edwards. Washington: The Brookings Institution, 1959. Pp. xxii, 698. $10.00.

Messrs. Neale and Edwards each have taken giant steps in filling existing gaps in trade regulation knowledge; their books not only satisfy long standing needs but provide as well an excellent contrast in depth and breadth.

An official of the British Board of Trade, Mr. Neale came to our shores on a British fellowship awarded in 1952 and made his headquarters with the Federal Trade Commission. There he was "guided" by, among others, Professor Edwards who at that time was head of the Commission's Bureau of Industrial Economics.

Mr. Neale proved an apt student of his deceptive subject; his accomplishment far outreaches the stated goal of explaining our antitrust laws to British lawyers and businessmen and should prove a touchstone for their American counterparts. Within the short confines of about five-hundred pages Mr. Neale has taken the broad, disinterested view and has managed to distill from the morass of statutes and decisions a cohesive pattern of American antitrust policies and enforcement.

The body of Mr. Neale's highly readable narrative combines a clear and concise history of the evolution, aim and scope of antitrust with a perceptive, and often penetrating, discussion of its content and administration. The book avowedly was not intended as a working tool for the antitrust specialist and, of course, cannot be expected to cover completely the multitude of nice distinctions in this complex area of the law. Although the work was published in 1960, few post 1955 decisions, and none later than 1958, are discussed. While it is true that no book in this dynamic area can be completely up-to-date, this lack of more current matter is at times frustrating (as is the author's failure to include official or national reporter citations). For example, the rash of merger cases of the

past few years is notably missing, leaving the short review of this important area inadequate. But this omission should not detract from the utility of the book as an introduction and stepping stone, especially for the student or non-expert practicing attorney.

Mr. Neale's chief distaste is in the Robinson-Patman Price Discrimination Act. He aptly observes, "There is a real danger that an account of the case-law under the Robinson-Patman Act—particularly an account intended primarily for readers outside the United States—will be met with frank unbelief."[1] Indeed, this observation is equally valid for readers within the United States. The vagaries of this statute have prompted the Supreme Court, in Herculean understatment, to advert that "precision of expression is not an outstanding characteristic of the Robinson-Patman Act."[2] Accordingly the author gives rather summary treatment to this act—particularly to the vitally important sections dealing with discriminatory advertising allowances, services and facilities, and to the brokerage and criminal sections. Perhaps in recognition of his mentor's contemporaneous work, Mr. Neale notes that these provisions "could well be given a book to itself."

Mr. Neale concludes his book with his assessment of antitrust as an American policy and as a possible export. In evaluating antitrust policy he notes that it has the "essential quality of something for everybody." However, the conclusion is reached that "it seems likely that American distrust of all sources of unchecked power is a more deep-rooted and persistent motive behind the antitrust policy than any economic belief or any radical political trend."[3] Reliance on judicial enforcement of rules of law as opposed to administrative regulation is in line with this basic policy of "checks and balances" and of "separation of powers." In contrast to this American interest in checking the exercise of economic power, British institutions "are designed on the whole to facilitate it, though great importance is attached to protecting minorities against its abuse and elaborate safeguards are adopted to this end."[4] Under British policy "the normal course is to let it [economic power] ride unless and until there is substantial evidence of abuses"; if such power is found to be exercised improperly then "regulative legislation (which may

[1] NEALE, THE ANTITRUST LAWS OF THE U.S.A. 252 (1960).
[2] Automatic Canteen Co. v. FTC, 346 U.S. 61, 65 (1953).
[3] NEALE, *op. cit. supra* note 1, at 422.
[4] *Id.* at 475.

involve the supervision of the power by some public body or even, in extreme cases, the outright transfer of power to the public domain) may follow."[5]

Mr. Neale is leary of requiring extensive *ad hoc* economic determinations followed by an injunction applicable only to the parties to the litigation. The author asserts:

> If any law against restrictive practices is required to be effective, the strong presumption must be in favour of simple prohibitions—*per se* rules—enforced by criminal proceedings and thereafter by the legal advisers of business. To the extent that any particular prohibition is thought to require provision for exceptions, it may well be better to take this as a sign that the prohibition does not command the necessary degree of public support and to reject it altogether than to compromise the manifest advantages of "fair and feasible" law.[6]

The author suggests that a middle way may yet be found to take advantage of the quick and sure justice of the rule of law by courts' application of per se rules and still maintain "some of the flexibility of the administrative tribunal's *ad hoc* determination of economic issues." In closing, however, he admonishes that

> a close study of the antitrust cases suggests the conclusion that the realm of economic assessment will be invaded by the courts at their peril, and that effective law will be based, if at all, on a reduction of the issues to facts concerned with collusion and restrictive intent.[7]

Mr. Neale's discussion of the *per se* rule vis-à-vis the Rule of Reason should be of particular interest to antitrust theorists. At the outset the author warns that the Rule of Reason is "difficult to define" and that "it is not an absolute and unvarying standard." He then presents his own incisive interpretation of the historical genesis and development of the rules, beginning with the opposing views of White and Taft.[8] Ignoring his own caveat, Mr. Neale attempts to define these rules based on a theory which leads him to observe that "the Rule of Reason is not after all so very special as a judicial technique."[9]

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[5] *Id.* at 476.
[6] *Id.* at 502.
[7] *Id.* at 503.
[8] *Id.* at 17.
[9] *Id.* at 431.

The nub of Mr. Neale's argument, as the writer understands it, is that a determination of illegality is reduced to a determination of "intent."[10] The author states that "what is clear and unmistakable in a *per se* offence is not its economic effect but its restrictive intent."[11] Thus, evidence of the *effect* of a particular course of conduct would be important only as evidencing *intent* pursuant to the maxim that "he who wills the means, wills the end." The author proceeds with the proposition that

> if *per se* offences are those in which the restrictive intent is clear and unmistakable, so the Rule of Reason in modern antitrust is the requirement that by rational inquiry the courts shall establish the true character or intent of what is done when that intent is not at first sight clear.[12]

Presumably the court would look to effects to determine intent where restrictive intent is not "clear and unmistakable." This neat bit of circular logic suggests the "chicken or egg" question: why not look to effect in the first place and apply the *per se* rule only where the effect is obvious? This latter course would seem to be more in line with the author's conclusion that "the concept of *per se* illegality is not at odds with the Rule of Reason but arises out of it."[13]

In contrast with Mr. Neale's broad survey of the antitrust laws, Professor Edwards has undertaken an intensive investigation of the genesis, operation and effect of the Robinson-Patman Act. The work, subtitled *A Review of Experience,* originally was projected

> to give minimum attention to litigation before the Federal Trade Commission and the courts; to take the facts found in decisions and opinions as a starting point; to ascertain from interested parties—sellers, favored and disfavored customers, and competitors of these—what happened after orders under the Robinson-Patman Act were issued; and to endeavor, from case studies of subsequent events, to formulate generalizations about the impact of the statute on business practice.[14]

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[10] The author uses "intent" in the broader sense to indicate "intent to restrict competition," rather than in the narrower and more subjective "predatory purpose" or *mens rea* sense. See *id.* at 97, 431 n.1.

[11] *Id.* at 430.

[12] *Id.* at 431.

[13] *Id.* at 432.

[14] EDWARDS, THE PRICE DISCRIMINATION LAW at ix (1959).

The obstacles encountered in uncovering reliable information of such nature in the multitude of cases under this act can easily be appreciated. Accordingly, the author's approach was revised to present analysis of the cases and comment on the effects of the litigation upon business practices. The result is an excellent review of Federal Trade Commission proceedings and litigation, supplemented with heretofore unavailable, or hard to come by, data concerning the effectiveness of the act in fulfilling its professed aims.

Professor Edwards' book contains three major sections. The first part sets forth a general summary of the provisions of the law, its legislative history, and its administration. The main body of the book analyzes the various parts of the act and discusses legal concepts and meanings gleaned from cases decided by the Commission and from selected major private cases. Also included here are the results of the author's inquiry, based on field investigation and interviews with interested parties, as to the effects of the decision in eighty-three cases. This substantive portion of the book is followed by the author's "appraisal of American price discrimination policy" and suggestions for modifying the statute and its underlying policy in order to bring it more nearly in line with other antitrust laws.

Professor Edwards, like Mr. Neale, takes a dim view of the act and, in particular, the way it has been administered by the Commission. In his appraisal, he points out that it has been only partially successful in meeting its objectives. Four aspects of its failures are noted specifically: (1) Its "serious gaps" in that sellers alone are subject to its proscriptions against discriminatory advertising allowances and services; (2) "Discrimination in enforcement," *i.e.*, individuals have been enjoined from practices in which their competitors have been left free to engage; (3) The act attacks symptoms of power rather than the power itself and leaves uncovered ways for exploitation by the powerful buyer; and (4) The law not only has restrained the powerful, but by proscribing certain tactics has curbed the ability of the weak to protect themselves. The author asserts that experience has demonstrated that in application the statute has overreached its objective, has often limited competition rather than encouraged it, and that the general requirement of inflexibility in prices in many instances has been at odds with the Sherman Act's concern with maintaining flexibility.

The author makes a strong case for the conclusion that the act in practice probably has harmed those whom it was designed to protect (small independent buyers, sellers and brokers) as much or more than it has hindered those whom it was designed to regulate (the powerful buyers). The fact that the proscriptions contained in subsections 2(d) and (e) against discriminatory advertising allowances and services are inapplicable to buyers, plus the unusual difficulties involved in bringing a successful action against a buyer under subsection 2(f) of the act, has resulted in a paucity of proceedings (other than brokerage cases) involving buyers. Professor Edwards therefore concludes, "It is an anomaly that, in a statute largely concerned with the power of buyers to induce discriminations that injure their weaker competitors, such activities by buyers have been seldom attacked directly."[15]

The author notes that "orders involving unlawful brokerage have been almost as numerous as all other orders combined" and concludes that this fact "suggests a substantial distortion of focus in the administration of the law."[16] The existence of this situation is due largely to the relative simplicity of obtaining a conviction under this *per se* section. Perhaps, congressional pressures being what they are, the Commission cannot be too harshly criticized for taking the line of least resistance in order to build a higher batting average, but certainly Professor Edwards is correct in his demonstration that the application of the act has been uneven and often misdirected.

Professor Edwards also takes issue with the practice of unequal enforcement of the act within a particular industry. It is interesting to note that the Commission, with the aid of its authorized mail-order type subpoenas, increasingly has taken steps to make industry-wide investigations and to initiate proceedings aimed at alleviating this fault. Understandably, the outcry has changed from "unequal enforcement" to "fishing expeditions" on an industry-wide scale.

Following such a devastating attack on the act and its enforcement, it is surprising that the author does not advocate its repeal. Rather he makes general suggestions for amending it "if people should ever be willing to do it." The author questions the desirability of attempting to assure equality of opportunity of buyers;

[15] *Id.* at 72.
[16] *Id.* at 70.

he would prefer concentration on maintaining competition in the broad market sense as opposed to injury to particular competitors. Toward this end the author states:

> To keep public control over business activity within reasonable limits and at the same time to cope more effectively with the greatest disparities of bargaining power, the focus of public policy should be shifted from efforts to control market behavior to efforts to prevent undue concentrations of power. Section 2 of the Clayton Act [as amended by the Robinson-Patman Act] cannot fill the need created by underuse of Section 7 of the Clayton Act and Section 2 of the Sherman Act.[17]

The suggestion that other sections of the Clayton Act and the Sherman Act might better accomplish the purposes of antitrust policies in price discrimination cases is in accord with the views of Mr. Neale, who illustrates the point by comparing the attack on inducing concessions in *United States v. Great Atl. & Pac. Tea Co.*[18] under the Sherman Act with that made in *Automatic Canteen Co. v. FTC*[19] under Robinson-Patman subsection 2(f).[20] In addition, both authors note the overlap between the Federal Trade Commission Act's general proscriptions against "unfair methods of competition" and the specific practices outlawed by Robinson-Patman.[21] Indeed it may be wondered why, in view of the conflicts and deficiencies of the Robinson-Patman Act noted by both authors, it would not be best to repeal the act in its entirety and rely on the other antitrust laws to more effectually accomplish the general purposes of antitrust policy. Both authors cast doubt on any such possibility, however, due to the strong political pressures which exist for this particular "special-interest" legislation with its concern with "underdoggery" and "equality of opportunity."

In conclusion, anyone with more than a passing interest in antitrust law should find a place on his bookshelf for each of these distinguished works. While neither may be termed a lawyer's

[17] *Id.* at 641.
[18] 173 F.2d 79 (7th Cir. 1949).
[19] 346 U.S. 61 (1953).
[20] NEALE, *op. cit. supra* note 1, at 468.
[21] *Id.* at 468 n.1; EDWARDS, *op. cit. supra* note 14, at 165 n.25, 487.

handbook on the law, each does provide a virtual wealth of information in a neat and thoroughly enjoyable package.

RICHARD E. DAY
ASSISTANT PROFESSOR OF LAW
UNIVERSITY OF NORTH CAROLINA

The Tax Practice Deskbook. By Harrop A. Freeman and Norman D. Freeman. Boston: Little, Brown and Company, 1960. Pp. xx, 581. $17.50.

This, as the title implies, is a one-volume "how to do it" book. It is a good one.

The standard work in this field has been Bickford's *Successful Tax Practice.* In addition to being of later vintage in a field where this is of value, the Freemans' product is much more fully annotated. Their tendency to enumeration—for example, of arguments and factors to be considered in making procedural choices—makes for a style that is not particularly fluid, but, more important in such a book, one that achieves simplicity and clarity of meaning.

The book is divided into twelve chapters. The first chapter introduces the reader to the rules on admission to practice before the Treasury Department and the Tax Court and to the tools of tax practice—Constitution, statutes and legislative materials, regulations and decisions. The second chapter on "Preventive Tax Practice" deals with the preparation of tax returns, getting Internal Revenue Service opinions and rulings, extensions, and the taxpayer's records. Following this is a chapter dealing with the importance of facts, how to collect and prove them. Chapter IV contains a good discussion of the organization, powers and inner workings of the Internal Revenue Service, while Chapter V on "Deficiencies and Overassessments" deals particularly with the way in which tax returns are examined and the procedure for handling claims within the Internal Revenue Service. The division of the latter chapter, which has twenty-two sections, into sub-topics (Preliminary Procedures; How the Service Examines Returns; The Thirty-Day Letter and Protest; Procedure in the Appellate Division; How To Negotiate and To Compromise; Closing Agreements, Waivers, Settlements—The Alternatives; The Deficiency (90-Day) Letter; and Overassessments) is typical of the way in which the book is organized. Subsequent chapters deal similarly with "The Tax

Court," "The Justice Department and Tax Cases," "Refunds," "Appeals in Tax Cases," "Common Procedural Problems" (periods of limitation, waiver, estoppel, etc.) and "Penalty Cases." There is a final chapter on "How to Brief a Tax Case."

Obviously it is not possible to cover in detail all possible questions of tax practice in a book of this size. And one would suppose that in such a book there might be minor errors or shortcomings.[1] However, the authors have covered all important aspects of federal tax practice. If the discussion is not as full as one would desire on some point, the ample footnotes, coupled with the bibliography of post-1948 law review material, classified according to the chapter sub-topics, which appears at the end of each chapter, supply abundant references for further research.

No one should have difficulty in finding any item discussed in the book. The organization is logical. As indicated above, the text begins with the transaction that may have tax implications and moves step-by-step through the various procedural aspects from local revenue agent to court review and final judgment. There is a detailed table of contents at the beginning of the book and one for each chapter at the beginning of the chapter. At the end there is a good index prepared by the authors, together with tables of cases, statutes, Treasury regulations and rulings and relevant court rules.

Not much class time can be devoted in the introductory taxation course to matters of tax practice, and I intend to recommend to my students that they read this book. It should also prove to be extremely useful as a ready reference for the tax practitioner.

HIRAM H. LESAR

DEAN AND PROFESSOR OF LAW
WASHINGTON UNIVERSITY

When Nations Disagree, A Handbook on Peace Through Law. By Arthur Larson. Baton Rouge: Louisiana State University Press, 1961. Pp. ix, 251. $3.95.

When Nations Disagree can be understood by any intelligent high school student; nevertheless, Dean Roscoe Pound says of it, "This book is much needed at the present time and I recommend it strongly." Obviously, this is no ordinary work. Author Arthur

[1] That there are a few occurrences of this nature in this book, see Lee, Book Review, 21 FED. B.J. 168 (1961).

Larson, Director of the World Rule of Law Center at Duke University, has happily combined here academic understanding of the legal principles and problems involved in achieving world rule of law with publicist skill. This fusion is essential to broaden the base of public approval which is prerequisite to substantial progress toward the goal of world peace through world law.

This two hundred and fifty-one page volume is wholly unencumbered by footnotes or other pedantic trappings. This is not an oblique way of saying it lacks academic excellence or intellectual sophistication. It possesses both in marked degree, plus evidence of solid research, extensive practical experience and sustained mature thought in the field of world law. The treatment of the basic doctrine of international law that treaties must be kept is an example of this studied simplicity; it does not once contain the classic, "Pacta sunt servanda," yet loses nothing by the omission. The material is organized into five parts with a total of thirty-one chapters. Each presents one facet of the world law complex in a clearly labelled, digestible, bite-size portion which promotes readability and understanding.

Mr. Larson begins with the premise that many international tensions are produced by justiciable, as distinguished from, or in addition to, "political" issues. This is supported by his analysis of the Berlin, Suez nationalization, Sino-Indian border, Gulf of Aqaba, Arab refugee, air space infringement and expropriation controversies of recent years. He points out that within a nation disputes are resolved, where negotiation fails to settle them, by resort to impartial third party adjudication and not by force, and that this could and should be routine in the international community as well. Furthermore, where an issue involves both legal and political considerations, the determination of the legal questions by impartial adjudication promotes peaceful political solution in a manner seldom accomplished by resort to mere conflicting and unresolved partisan assertions of legal rights.

Part One of the book objectively evaluates the body of world law, demonstrating that it is neither infallible nor impotent. Recognized as weaknesses are uncertain areas, uncovered areas and the distrust of some new nations for international law resulting from associating it with colonialism.

Emphasis is placed on the value of "the general principles of law

recognized by civilized nations" which is included in Article 38 of the Statute of the International Court as a source of world law. Studies in progress demonstrate remarkable similarity, if not identity, in basic principles not only of the common and civil law systems, but of the Indian, Moslem, Jewish, Chinese, Soviet and African legal systems as well. For example, all recognize the principle of illegal harm, the individual right of self-defense and limitations on the amount of force that may be used for this purpose. The author suggests that instead of trying to define "aggressive war," international law should require a warring nation to prove self-defense before the International Court. This would require proof of reasonable apprehension of danger and that the force used to repel the danger was not excessive. While Mr. Larson does not say so, this seems to point to a modern "jus gentium," applicable alike to nations and individuals. With adequate research, this approach may give new scope and certainty to international law which the old doctrine of "natural law" has failed to achieve.

The author states that Lord Coke's historic declaration that "the King ought not to be under man, but under God and the law" extends to international law as well as to domestic law, and hence that within the proper sphere of international law, national sovereignty must yield. Legal positivists, isolationist Senators and chauvinists will take sharp issue with this proposition. To those who believe that irresponsible international conduct and never-ending war is too high a price to pay to maintain the sterile, contentious fetish of absolute sovereignty, the idea that a nation is sovereign only under law, both national and international, is not only convincing but indispensable.

The urgent necessity for collecting and making widely available all existing international law materials is stressed. The arresting thought is presented that these "quiet techniques of scholarship" could realize fruition by expenditure equal only to a minute fraction of what is now devoted to scientific research designed to produce lethal means of destruction.

Part Two of this work presents the historical development of the machinery of world law and reviews the pertinent provisions of the Charter of the United Nations and the Statute of the International Court of Justice.

Part Three grapples with the crucial question whether nations

can accept world law. Global misgivings are placed in three groups. First is the United States' failure to understand the potential contribution of world law to peace, its own resurgent isolationism and its continued underestimation of the ability, integrity and self-restraint of world court judges. Second is the failure of the new countries to appreciate the contribution which international law techniques can make toward furthering the development of their resources and industry, coupled with the erroneous idea that international law is static and intolerant of social change. Finally, Mr. Larson believes there is a failure of the Communist countries to realize that legal settlement of disputes is an essential to peaceful coexistence and disarmament conditions prerequisite to efforts by these countries to improve their standards of living. Most troublesome is the Communist ideology that law and courts are part of the world struggle, rather than being above it.

Within the realistic framework of this analysis, Mr. Larson proceeds to deal, one by one, with the principal arguments advanced by those who want no part in a world in which international disputes are disposed of by legal proceedings before the World Court. If you believe that world law is unacceptable because (1) it infringes absolute sovereignty; (2) causes of international strife are non-justiciable; (3) the World Court would meddle in domestic affairs in the United States; (4) individual Americans might be tried by the World Court; (5) the World Court judges are not to be trusted; (6) future changes in international law may be too radical; (7) military strength alone is all we need to protect national interests; (8) world rule of law of necessity requires complete world government; (9) new nations will not acquiesce due to fear of stifling social change; (10) the communists will never accept it, then you simply cannot afford to read this book. With reasonableness and detachment it will tear down your prejudices, destroy your straw men and leave you hard-put to marshal one valid reason for continuing to oppose world rule of law. Are you tough-minded enough to risk such an experience?

Part Four discusses the factor of compliance with decisions of international tribunals, cites the long history of abiding by arbitration awards, and alludes to the fact that there has been compliance with every World Court judgment excepting that part of the decision in the *Corfu Channel* case which directed Albania to pay

damages to Great Britain. The author does not say so, but the thought occurs that the fact that some judgments on file in county court houses remain unpaid never has been considered sufficient reason to abandon legal determination of disagreements at the national and local level.

Mr. Larson observes that there is a tendency to underestimate the habit of compliance with law, the effective force of world public opinion, the compulsion under which national leaders find themselves to conform to the cumulative moral standards of their people, the good-will factor of conducting one's self lawfully and the self-interest factor in conforming to law so that others are less likely to engage in lawless conduct. Beyond these factors use can be made of diplomatic and economic sanctions, withholding of World Bank credits and application of the process of national courts in aid of international judgments. Alternatively or cumulatively, the Article 10 power of the General Assembly might be invoked to take up non-compliance with a World Court judgment and to recommend action thereon to the member states. Finally, force may be used to obtain compliance with international law, even as it is available to enforce domestic law. The use of United Nations security forces in proper cases is now an established practice. Above all, Mr. Larson stresses the belief that with rare exceptions World Court judgments will receive peaceful compliance just as do domestic court judgments.

Regarding disarmament the author says, "The only force that can fill the vacuum created by the removal of armaments is the rule of law." He states that the basic rule of diplomacy is that negotiation must be from strength, and quotes Winston Churchill, "We arm to parley." No wonder diplomats make slow work of disarmament. Prudence would seem to dictate choice of a world society in which negotiation is back-stopped by law and not by carnage, and where the legal merits of a position are determined by impartial third party adjudication and not by fear of a cobalt bomb or other "ultimate" weapon.

In Part Five the book sets forth immediate steps to be taken. As the author puts it, "[P]eace is not a mood . . . but something that must be built." To this end there are certain things the United States Government must do. First is repeal of the Connally Amendment. The Senate, in ratifying the United States' declaration of

acceptance of compulsory World Court jurisdiction, excluded by this amendment "disputes with regard to matters . . . essentially within domestic jurisdiction . . . as determined by the United States of America." The last eight words are objectionable in that they give the United States an absolute veto by which it may prevent any case in which it is a party from being decided by the International Court of Justice. By reciprocal effect these words also prevent the United States from requiring any other nation with which it has a dispute to submit it to that court for decision. Until the United States joins the thirty-five nations which have made unqualified declarations of willingness to abide by judicial settlement of international disputes we can expect other members of the international community to doubt our intentions. Third party adjudication, as distinguished from self-judging, is the very essence of any legal system. We must cease to stand in our own light in this way if we are to help achieve world rule of law.

Our government must press for greater use of the International Court and for the systematic expansion of international law. Where present law does not cover troublesome areas, active steps should be taken by means of multilateral treaties to broaden the substantive law and thus place its authenticity beyond the range of controversy. Such treaties should contain compromissary clauses requiring that disputes be submitted to the International Court for decision. The control of outer space for peaceful purposes cries out for immediate application of this technique. The successful international control of Antarctica by treaty evidences the efficacy of this method.

The government could do much to accomplish the collection, publication and distribution of international law materials. The recent creation by the United States of a small permanent Peace Agency within the government is a hopeful sign. Perhaps constructive legal steps will follow.

The book discusses the role of the lawyer. The American Bar Association has actively promoted world rule of law. It has sponsored regional international meetings for lawyers of all nations and is preparing a handbook collecting material descriptive of the law and legal systems of all countries. This comparative approach should aid synthesis of general principles. The American Bar Association, though by a narrow margin, also is on record as favoring the repeal of the Connally Amendment.

This reviewer is impelled to say that even today many lawyers and most law students have scant knowledge of international law. The unknown is suspect. If international law were required in law school and included in bar examinations American lawyers could more effectively aid in achieving world peace through world law.

The general public has been thoroughly indoctrinated in the importance of science and scientists in the modern world and in the philosophy that their work transcends national boundaries. This same public must be educated to a realization that the products, and by-products, of international science must be restrained and directed by international law, and that there must be qualified international lawyers and an informed public that insist upon its use to make international law truly effective.

The whole tone of the case here made for world peace through world law is one of reasonableness, of constructive hopefulness, of espousal of specific forward steps within the practical limits of the possible, of extending professional and technical assistance along the way, and above all of an abiding faith in the power of legal process to channel the efforts of mankind away from self-destruction and into the ways of peace. In recent years there have been spectacular breakthroughs in scientific achievement. The time is ripe for a legal breakthrough in the international community. The closing words of the author, "The shadow of the hydrogen bomb . . . [may] enable us to achieve a degree of progress in decades that in other times might have taken centuries," may well be prophetic.

This book should be read not only by United States Senators, lawyers and law students, but by all kinds of people everywhere. They then should proceed to convert its thought into action.

SEYMOUR W. WURFEL

PROFESSOR OF LAW
UNIVERSITY OF NORTH CAROLINA

BOOKS RECEIVED

Colonial Justice in Western Massachusetts (1639-1702), The Pynchon Court Record. Edited with a legal and historical introduction by Joseph H. Smith. Cambridge: Harvard University Press, 1961. Pp. ix, 426. $7.50.

Freedom and the Law. By Bruno Leoni. Princeton: D. Van Nostrand Company, Inc., 1961. Pp. vii, 204. $6.00.

Handbook for Judges. An Anthology of Inspirational and Other Helpful Writings for Members of the Judiciary. Compiled and edited by Donald K. Carroll. Chicago: American Judicature Society, 1961. Pp. vi, 195. $3.50.

Law in the Making. By Sir Carleton Kemp Allen. London: Oxford University Press, Paperback edition 1961 (6th ed. 1958). Pp. xxxix, 645. $2.50.

Management's Stake in Tax Administration. Symposium. Princeton: Tax Institute Inc., 1961. Pp. x, 260. $6.00.

The Supreme Court of the United States, Its Business, Purposes and Performance. By Paul A. Freund. Cleveland: The World Publishing Company, 1961. Pp. 224. $1.35 (paper), $3.75 (hand-bound).